

ADMINISTRATIVE PANEL DECISION

Bloch International Management Pty. Ltd. v. Monika Lehmann
Case No. D2024-3653

1. The Parties

The Complainant is Bloch International Management Pty. Ltd., Australia, represented by Venable, LLP, United States of America (“United States”).

The Respondent is Monika Lehmann, Germany.

2. The Domain Name and Registrar

The disputed domain name <blochchile.shop> (the “Domain Name”) is registered with PDR Ltd. d/b/a PublicDomainRegistry.com (the “Registrar”).

3. Procedural History

The Complaint was filed with the WIPO Arbitration and Mediation Center (the “Center”) on September 10, 2024. On September 10, 2024, the Center transmitted by email to the Registrar a request for registrar verification in connection with the Domain Name disclosing registrant and contact information for the Domain Name which differed from the named Respondent (UNKNOWN) and contact information in the Complaint. The Center sent an email communication to the Complainant on September 11, 2024, providing the registrant and contact information disclosed by the Registrar, and inviting the Complainant to submit an amendment to the Complaint. The Complainant filed an amendment to the Complaint on September 12, 2024.

The Center verified that the Complaint together with the amendment to the Complaint satisfied the formal requirements of the Uniform Domain Name Dispute Resolution Policy (the “Policy” or “UDRP”), the Rules for Uniform Domain Name Dispute Resolution Policy (the “Rules”), and the WIPO Supplemental Rules for Uniform Domain Name Dispute Resolution Policy (the “Supplemental Rules”).

In accordance with the Rules, paragraphs 2 and 4, the Center formally notified the Respondent of the Complaint, and the proceedings commenced on September 17, 2024. In accordance with the Rules, paragraph 5, the due date for Response was October 7, 2024. The Respondent did not submit any response. Accordingly, the Center notified the Respondent’s default on October 9, 2024.

The Center appointed Piotr Nowaczyk as the sole panelist in this matter on October 19, 2024. The Panel finds that it was properly constituted. The Panel has submitted the Statement of Acceptance and Declaration of Impartiality and Independence, as required by the Center to ensure compliance with the Rules, paragraph 7.

4. Factual Background

The Complainant is a manufacturer of technical dance footwear, including ballet pointe shoes, and apparel. It was founded in Sydney, Australia in 1932. Currently, the Complainant's products are used by leading dance companies throughout the world and well-known ballerinas.

The Complainant is the owner of the Chilean Trademark Registration for BLOCH No. 1239452, registered on November 8, 2016.

The Complainant's affiliated entities have owned and operated such domain names incorporating the BLOCH trademark as <us.blochworld.com> and <bloch.com.au>.

The Domain Name was registered on May 10, 2024.

At the time of submitting the Complaint, the Domain Name resolved to an online store purportedly selling the Complainant's products (the "Website").

5. Parties' Contentions

A. Complainant

The Complainant contends that it has satisfied each of the elements required under the Policy for a transfer of the Domain Name.

First, the Complainant contends that the Domain Name is confusingly similar to the trademark in which the Complainant has rights.

Second, the Complainant argues that the Respondent has neither rights nor legitimate interests in the Domain Name.

Third, the Complainant submits that the Domain Name was registered and is being used in bad faith.

B. Respondent

The Respondent did not reply to the Complainant's contentions.

6. Discussion and Findings

Paragraph 4(a) of the Policy places a burden on the Complainant to prove the presence of three separate elements, which can be summarized as follows:

- (i) the Domain Name is identical or confusingly similar to a trademark or service mark in which the Complainant has rights;
- (ii) the Respondent has no rights or legitimate interests in the Domain Name; and
- (iii) the Domain Name has been registered and is being used in bad faith.

The requested remedy may only be granted if the above criteria are met. At the outset, the Panel notes that the applicable standard of proof in UDRP cases is the “balance of probabilities” or “preponderance of the evidence”. See section 4.2 of the WIPO Overview of WIPO Panel Views on Selected UDRP Questions, Third Edition (“[WIPO Overview 3.0](#)”).

A. Identical or Confusingly Similar

Under the first element, the Complainant must establish that the Domain Name is identical or confusingly similar to the trademark in which the Complainant has rights.

The Complainant holds valid BLOCH trademark registration. The Domain Names incorporate this trademark in its entirety. As numerous UDRP panels have held, incorporating a trademark in its entirety is sufficient to establish that a domain name is identical or confusingly similar to that trademark. See *PepsiCo, Inc. v. PEPSI, SRL (a/k/a P.E.P.S.I.) and EMS COMPUTER INDUSTRY (a/k/a EMS)*, WIPO Case No. [D2003-0696](#).

The addition of the term “chile” in the Domain Name does not prevent a finding of confusing similarity between the Domain Name and the Complainant’s BLOCH trademark. Panels have consistently held that where the relevant trademark is recognizable within the disputed domain name, the addition of other terms (whether descriptive, geographical, pejorative, meaningless, or otherwise) would not prevent a finding of confusing similarity under the first element. See section 1.8 of the [WIPO Overview 3.0](#).

The generic Top-Level Domain “.shop” in the Domain Name is viewed as a standard registration requirement and as such is typically disregarded under the first element test. See section 1.11.1 of the [WIPO Overview 3.0](#).

Given the above, the Panel finds that the Domain Name is confusingly similar to the Complainant’s BLOCH trademark for purposes of the Policy. In sum, the Panel finds the first element of the Policy has been established.

B. Rights or Legitimate Interests

Under the second element, the Complainant must prove that the Respondent has no rights or legitimate interests in the Domain Name.

The Respondent may establish a right or legitimate interest in the Domain Name by demonstrating in accordance with paragraph 4(c) of the Policy any of the following:

- (i) that it has used or made preparations to use the Domain Name or a name corresponding to the Domain Name in connection with a bona fide offering of goods or services prior to the dispute; or
- (ii) that it is commonly known by the Domain Name, even if it has not acquired any trademark rights; or
- (iii) that it is making a legitimate noncommercial or fair use of the Domain Name without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark.

Although given the opportunity, the Respondent has not submitted any evidence indicating that any of the circumstances foreseen in paragraph 4(c) of the Policy are present in this case.

On the contrary, it results from the evidence on record that the Complainant’s BLOCH trademark registration predates the Respondent’s registration of the Domain Name. There is no evidence in the case record that the Complainant has licensed or otherwise permitted the Respondent to use the BLOCH trademark or to register the Domain Name incorporating this trademark. There is also no evidence to suggest that the Respondent has been commonly known by the Domain Name.

Moreover, it results from the evidence on record that the Respondent does not make use of the Domain Name in connection with a bona fide offering of goods or services, nor does it make a legitimate noncommercial or fair use of the Domain Name. On the contrary, the Domain Name resolves to the Website purportedly offering for sale the Complainant's products, as well as prominently featuring the Complainant's BLOCH trademark and product images. Such use of the Domain Name does not confer rights or legitimate interests on the Respondent.

The Respondent could make a bona fide offering of goods and services as a reseller or distributor of the Complainant's products, and thus have a legitimate interest in the Domain Name, if this use meets certain requirements as set out in *Oki Data Americas, Inc. v ASD, Inc.*, WIPO Case No. [D2001-0903](#). While it does not result from the case record that the Respondent is authorized to resell or distribute the Complainant's products, taking into consideration the nature of the Domain Name as compared to the trademark, the Panel will for completeness analyze the "fair use" factors enumerated under the above-referenced "Oki Data test". These requirements are that: (1) the Respondent must actually be offering the goods or services at issue; (2) the Respondent must use the Website to sell only the trademarked goods or services, otherwise, it could be using the trademark to bait Internet users and then switch them to other goods or services; (3) the Website must accurately disclose the Respondent's relationship with the trademark owner; and (4) the Respondent must not try to corner the market in all domain names, thus depriving the trademark owner of reflecting its own mark in a domain name.

In the present case, the above referred requirements are not met. The Domain Name and the Website suggest at least an affiliation with the Complainant and its BLOCH trademark. The Panel believes that the use of the Complainant's trademark in the Domain Name and on the Website misleads Internet users regarding the lack of relationship between the Respondent and the Complainant, as Internet users may falsely believe that the Respondent is an entity associated with the Complainant. At the same time, the relationship between the Respondent and the Complainant (or a lack thereof) is not disclosed on the Website. This further perpetuates the false impression of a relationship between the Respondent and the Complainant.

Moreover, the Complainant alleges that the products offered on the Website are highly likely to be counterfeit, and unauthorized by the Complainant.

Given the above, the Respondent has failed to invoke any circumstances, which could demonstrate, pursuant to paragraph 4(c) of the Policy, any rights or legitimate interests in respect of the Domain Name. Thus, there is no evidence in the case file that refutes the Complainant's prima facie case. In sum, the Panel finds the second element of the Policy has been established.

C. Registered and Used in Bad Faith

Under the third element, the Complainant must prove that the Domain Name has been registered and is being used in bad faith.

Bad faith under the UDRP is broadly understood to occur where a respondent takes unfair advantage of or otherwise abuses a complainant's mark. See section 3.1 of the [WIPO Overview 3.0](#).

Under paragraph 4(b) of the Policy, evidence of bad faith registration and use includes without limitation:

- (i) circumstances indicating the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the owner of a trademark or to a competitor of the trademark owner, for valuable consideration in excess of the documented out-of-pocket costs directly related to the domain name; or
- (ii) circumstances indicating that the domain name was registered in order to prevent the owner of a trademark from reflecting the mark in a corresponding domain name, provided it is a pattern of such conduct;

or

(iii) circumstances indicating that the domain name was registered primarily for the purpose of disrupting the business of a competitor; or

(iv) circumstances indicating that the domain name has intentionally been used in an attempt to attract, for commercial gain, Internet users to a website or other online location, by creating a likelihood of confusion with a trademark as to the source, sponsorship, affiliation, or endorsement of the website or location or of a product or service on a website or location.

As indicated above, the Complainant's rights in the BLOCH trademark predate the registration of the Domain Name. This Panel finds that the Respondent was or should have been aware of the Complainant's trademark at the time of registration. This finding is supported by the content of the Website allegedly offering for sale the Complainant's products, as well as prominently displaying the BLOCH trademark together with the Complainant's product images. Moreover, it has been proven to the Panel's satisfaction that the Complainant's BLOCH trademark is well-known and unique to the Complainant. Thus, the Respondent could not reasonably ignore the reputation of goods under this trademark. In sum, the Respondent, more likely than not, registered the Domain Name with the expectation of taking advantage of the reputation of the Complainant's BLOCH trademark.

Furthermore, as previously noted, the Domain Name has been used in bad faith by the Respondent to resolve Internet users to the Website. The Panel finds that the Respondent has intentionally attempted to attract, for commercial gain, Internet users to this Website by creating a likelihood of confusion with the Complainant's trademark as to the source, sponsorship, affiliation, or endorsement of the Website.

For the reasons discussed above, the Panel finds the third element of the Policy has been established.

7. Decision

For the foregoing reasons, in accordance with paragraphs 4(i) of the Policy and 15 of the Rules, the Panel orders that the Domain Name <blochchile.shop> be transferred to the Complainant.

/Piotr Nowaczyk/

Piotr Nowaczyk

Sole Panelist

Date: November 2, 2024